

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

DOCKET NO. 3:95-CR-178-FDW-9

THIS MATTER comes now before the Court on remand from the United States Court of Appeals for the Fourth Circuit. In accordance with the circuit court's opinion, the Clerk is DIRECTED to reassign this case to a non-conflicted district judge for restenencing.¹

IT IS SO ORDERED.

Signed: April 1, 2009

Frank D. Whitney
Frank D. Whitney
United States District Judge

¹ The Fourth Circuit vacated this Court’s original sentence after it was discovered that the undersigned was involved in Defendant’s original sentencing hearing as an Assistant United States Attorney. The Fourth Circuit panel opined that this violation of 28 U.S.C. § 455(b)(3) was “unwitting,” there being “no evidence to suggest that [the undersigned] recalled his participation in Robinson’s original sentencing proceeding, nor did anyone bring it to his attention” (Slip. Op. at 17.) The undersigned wishes to confirm the circuit court’s opinion on this matter, noting that a conflict check is performed in every case and that the undersigned was neither counsel of record nor aware of his involvement in this Defendant’s case, but could have become involved in this matter as the duty attorney on the day of Defendant’s original sentencing.